

Officer History

Officer Name: Kinsey, Kendo

Tax ID: 938774

Sex: M

Shield: 12092

Race: Black

Rank: POM

Command: 032

Appt Date: 07/11/2005

Tenure: 15

CCRB #	Report Date	Incident Date	Allegation	Disposition	NYPD Disposition	NYPD Penalty	Command
201102302	02/20/2011	02/20/2011	OMN - Failure to prepare a memo book entry	Other Misconduct			048
	02/20/2011	02/20/2011	Offensive Lang. - Gender	Unsubstantiated			048
	02/20/2011	02/20/2011	OMN - Failure to produce stop and frisk report	Other Misconduct	No Disciplinary Action-DUP		048
	02/20/2011	02/20/2011	Discourtesy - Word	Substantiated (Command Discipline)	No Disciplinary Action-DUP		048
201503358	04/28/2015	04/25/2015	Discourtesy - Word	Unsubstantiated			032
201508695	10/10/2015	10/10/2015	Abuse - Other	Substantiated (Command Discipline A)	Command Discipline - A	Command Discipline - A	032

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Diana Murray	Team: Team # 3	CCRB Case #: 201102302	<input type="checkbox"/> Force <input checked="" type="checkbox"/> Abuse	<input checked="" type="checkbox"/> Discourt. <input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> U.S. <input type="checkbox"/> Injury
Incident Date(s) Sun, 02/20/2011 12:30 AM	Location of Incident: [REDACTED] Bronx Park Avenue		Precinct: 48	S.O.L. Expires: 08/20/2012	
Date/Time CV Reported Sun, 02/20/2011 10:31 PM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sun, 02/20/2011 10:31 PM		

Complainant/Victim	Type	Home Address
civilian witness 1		
2. Individuals	Comp/Victim	Unknown

Witness(es)	Home Address
civilian witness 2	
civilian witness 3	
civilian witness 4	Unknown
civilian witness 5	Unknown
civilian witness 6	Unknown
civilian witness 7	
civilian witness 8	

Subject Officer(s)	Shield	TaxID	Command
1. POM Kendo Kinsey	12092	938774	048 PCT
2. LT John Mcandrew	00000	906761	048 PCT
3. POM Nazim Karim	28632	944074	048 PCT
4. POF Jessica Mayorga	07968	939369	BX CT

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. POM Kelvin Sanchez	17423	944288	048 PCT
2. POM George Hines	05160	943371	048 PCT
3. POM Tad Myers	15074	947286	048 PCT
4. POM Jeffrey Santana	10683	944980	048 PCT
5. POF Olga Petrenko	02506	947939	048 PCT

Officer(s)	Allegation	Investigator Recommendation
A . LT John Mcandrew	Abuse of Authority: Lt. John McAndrew authorized the frisk of civilian witness 1 and individuals.	A . Substantiated
B . POM Kendo Kinsey	Off. Language: PO Kendo Kinsey made remarks to civilian witness 1 based upon the sex of civilian witness 1	B . Unsubstantiated
C . POM Kendo Kinsey	Discourtesy: PO Kendo Kinsey spoke obscenely to civilian witness 1	C . Substantiated
D . LT John Mcandrew	Other: Lt. John Mcandrew failed to prepare a stop and frisk report as required.	D . Other Misconduct
E . POM Kendo Kinsey	Other: PO Kendo Kinsey failed to prepare a stop and frisk report as required.	E . Other Misconduct

Officer(s)	Allegation	Investigator Recommendation
F . POF Jessica Mayorga	Other: PO Jessica Mayorga failed to prepare a stop and frisk report as required.	F . Other Misconduct
G . POM Kendo Kinsey	Other: PO Kendo Kinsey failed to prepare a memo book entry as required.	G . Other Misconduct
H . POM Nazim Karim	Other: PO Nazim Karim failed to prepare a memo book entry as required.	H . Other Misconduct

Case Summary

On February 20, 2011 **civilian witness 1** filed this complaint at the CCRB via the Call Processing System (CPS) (Enc. 7a-7c). On February 20, 2011, at approximately 12:30 a.m., police officers arrived at [REDACTED] Bronx Park Avenue, in the Bronx, and broke up a house party. The following allegations resulted:

- **Allegation A: Abuse of Authority** – Lt. John McAndrew authorized the frisk of **civilian witness 1** and individuals.
The information that Lt. McAndrew possessed was insufficient to reasonably believe that each individual at the party, including **civilian witness 1** was armed and dangerous, thus warranting the frisk of 20-80 people. It is therefore recommended that **Allegation A** be closed as **substantiated**.
- **Allegation B: Offensive Language** – PO Kendo Kinsey made remarks to **civilian witness 1** based upon the sex of **civilian witness 1**.
Due to the controversial nature of the statements provided, the investigation could not determine whether PO Kinsey made the alleged offensive remarks. As such, it is recommended that **Allegation B** be closed as **unsubstantiated**.
- **Allegation C: Discourtesy** – PO Kendo Kinsey spoke obscenely to **civilian witness 1**.
The investigation determined by a preponderance of evidence that PO Kinsey made a discourteous statement to **civilian witness 1** without justification. It is therefore recommended that **Allegation C** be closed as **substantiated**.
- **Allegation D: Other Misconduct** – Lt. John McAndrew failed to prepare a stop and frisk report as required.
- **Allegation E: Other Misconduct** – PO Keno Kinsey failed to prepare a stop and frisk report as required.
- **Allegation F: Other Misconduct** – PO Jessica Mayorga failed to prepare a stop and frisk report as required.
Lt. McAndrew, PO Kinsey, and PO Mayorga acknowledged their role in frisking 20-80 individuals at the party, and no officer prepared a Stop, Question, and Frisk Report, as required by Patrol Guide Procedure 212-11. It is therefore recommended that they be cited with **other misconduct**.
- **Allegation G: Other Misconduct** – PO Kendo Kinsey failed to prepare a memo book entry as required.
- **Allegation H: Other Misconduct** – PO Nazim Karim failed to prepare a memo book entry as required.
PO Kinsey and PO Karim failed to prepare any memo book entries regarding their role at [REDACTED] Bronx Park Avenue, as required by Patrol Guide Procedure 212-08. It is therefore recommended that they be cited with **other misconduct**.

This case was originally assigned to Investigator Katelyn Williams, and on December 2, 2011, the case was reassigned to Investigator Diana Murray upon Investigator Williams' departure from the agency.

Results of Investigation

Civilian Statements

Complainant/Victim: **civilian witness 1**

- **civilian witness 1** is a [REDACTED]-year-old, 5'4" tall, 126-pound black female with black hair and brown eyes.

CCRB Testimony

civilian witness 1 provided a phone statement to the CCRB on February 24, 2011 (Enc. 8a), and was interviewed at the CCRB on March 21, 2011 (Enc. 9a-9g). Both statements were consistent with each other.

On February 20, 2011, at approximately 12:15a.m., civilian witness 1 arrived at a party located at Bronx Park Avenue, in the Bronx, with two friends, civilian witness 3 and civilian witness 4. They were meeting three other friends there, including civilian witness 2 and friends known only as civilian witness 5 and civilian witness 6. civilian witness 2 had received an invitation for the party via Facebook and invited civilian witness 1. Upon arriving, civilian witness 1 observed that the location was a private house that resembled a “trap-house,” a house where people go to do drugs. Unidentified male civilians at the party were outside of the house frisking or searching partygoers before they entered the house.

When civilian witness 1 initially walked into the house, she smelled marijuana. However, she never saw anyone smoking, nor did she see anyone drinking or holding containers of alcohol. Neither she nor any of her friends were drinking. There was music playing, but it was not that loud.

civilian witness 1 was only at the party for about ten minutes when the music was turned off and she heard someone say that the party was over because the police were there. She then saw about eight uniformed male police officers in the house with their flashlights on and pointed at partygoers. civilian witness 1 did not see how the officers got into the building, but she believes that someone let them in.

Lt. John McAndrew, who was identified via the investigation and described by civilian witness 1 as a 6’0” tall, uniformed, white male officer in his late 40’s to early 50’s, with greyish hair and blue eyes, entered the location. Lt. McAndrew told the males at the party that they all had to be “checked” before they could leave, and instructed them to line up. Lt. McAndrew did not explain why they had to be checked. Fifteen or twenty males complied and lined up against the living room wall. However, other individuals jumped out of the window and ran away. civilian witness 1 also saw people throwing things out of the window.

About four uniformed male officers, including Lt. McAndrew, began frisking the males. civilian witness 1 could not provide physical descriptions for the other three officers. civilian witness 1 watched as the officers patted the males down on the outside of their clothing. The female partygoers were directed to line up against the wall.

An unidentified female civilian next to civilian witness 1 said she heard that a female had been jumped and stabbed “up the block” from the house, and that’s why the police were there. civilian witness 1 never received any additional information regarding the stabbing, nor did she hear any officer mention a stabbing or assault.

The females then began talking about how disrespectful the males were being towards the officers. civilian witness 1 told her friends that she heard the males telling the officers to suck their “dicks.” When civilian witness 1 said this, PO Kendo Kinsey, who civilian witness 1 identified via his nameplate, and described as a 5’5” tall, stocky, black male officer in his 40’s, came up from behind the line and asked, “Which manly female said that?”

civilian witness 1 told PO Kinsey, “Excuse me sir, I said it, but I was in conversation with me and my friends. I wasn’t trying to disrespect anybody.” PO Kinsey then grabbed civilian witness 1 by her left arm and dragged her out of the living room and into the long hallway, which was not visible to the living room. civilian witness 1 did not try to resist and she allowed PO Kinsey to drag her. PO Kinsey then pulled her arms behind her back and slammed her face-first into the hallway wall, causing the left side of her face to make contact with the wall. PO Kinsey then handcuffed civilian witness 1. civilian witness 1 did not sustain any injuries as a result of this physical contact and did not seek medical treatment. There were no other officers or civilians in the hallway at this point.

civilian witness 1 asked PO Kinsey if he could get a female officer to deal with her, but he did not respond. civilian witness 1 could hear female officers' voices, though she was still in the hallway, which is obstructed from the living room, and did not see female officers perform frisks of the female partygoers. civilian witness 1 overheard a female officer state, "Open your arms and spread your legs please because I have to check you before you leave because if you have anything, that's going to be a cause for us to take you."

While in the hallway, civilian witness 2 arrived and asked civilian witness 1 "What's your recruiter's number?" PO Kinsey asked civilian witness 1 what she meant, and she explained that she was scheduled to go to Navy boot camp in the near future. During their conversation, PO Kinsey stated to civilian witness 1 "I've been doing this shit for 8 ½ years; I know what the fuck I'm doing."

civilian witness 1 sat in a chair in the hallway for approximately ten minutes before PO Jessica Mayorga, who was identified via the investigation and described by civilian witness 1 as a 5'1"- 5'2" tall, stocky Hispanic female officer in her 20's, arrived. PO Mayorga instructed civilian witness 1 to spread her legs and arms, and subsequently patted down the outside of civilian witness 1 clothing. PO Kinsey removed civilian witness 1 handcuffs and told her she could go. She was not issued a summons. When she exited [REDACTED] Bronx Park Avenue, there was only one marked police van outside.

Witness: civilian witness 2

CCRB Phone Statement

civilian witness 2 provided a phone statement to the CCRB on April 14, 2011 (Enc. 10a). civilian witness 2 statement was generally consistent with civilian witness 1 testimony, with any additions or exceptions noted bellow.

Upon arriving at the party, civilian witness 2 observed a large number of people dancing. Six male officers and six female officers entered the location and broke the party up. An officer indicated that a girl had been jumped a few blocks away and that the perpetrators had come from the party.

While partygoers were being frisked, civilian witness 1 and civilian witness 2 were having a conversation. PO Kinsey, who was identified via the investigation, told civilian witness 2 and civilian witness 1 to "shut the hell up" or he would arrest her.

civilian witness 1 began to argue, but civilian witness 2 instructed civilian witness 1 to be quiet, as her recruiter would get upset if civilian witness 1 got in trouble. PO Kinsey informed civilian witness 1 that the Navy was going to "shit on her." PO Kinsey forcefully grabbed civilian witness 1 by her shoulder and pushed her stomach-first against a wall. PO Kinsey stated, "I told you to shut the hell up." He handcuffed her and sat her down on a chair in the front area of the house where civilian witness 2 could not see.

civilian witness 2 was unable to see what happened next because she was frisked by a female officer and then told to leave. civilian witness 2 stated that everyone at the party was frisked.

civilian witness 2 refused to come to the CCRB to provide an in-person statement, but stated that she would submit a written notarized statement. On April 15, 2011, a verification form and a prepaid envelope were mailed to civilian witness 2 residence. On July 21, 2011, contact was established with civilian witness 2 a second time and she said she never received the verification form and pre-paid postage envelope. This same day, an additional package was mailed to civilian witness 2 and neither package has been returned to the CCRB as of the writing of this report. On December 5, 2011, a third reminder letter was mailed to civilian witness 2 residence, requesting that a verification form be submitted to the CCRB. As of the writing of this report, civilian witness 2 has failed to contact the CCRB.

Witness: civilian witness 7

civilian witness 7 was identified via the 48th Precinct Summons Log, which indicated that PO Jessica Mayorga issued him a summons for operating without a security guard license at 1:05 a.m.

CCRB Phone Statement:

civilian witness 7 provided a phone statement to the CCRB on March 5, 2012 (Enc. 11a). His statement was generally consistent with civilian witness 1 statement, with any additions or exceptions noted below.

civilian witness 7 unidentified friend owns the house at [REDACTED] Bronx Park Avenue, in the Bronx, where this incident occurred. civilian witness 7 arrived at the house to attend a party hosted by his friend. During the party, civilian witness 7 went outside with a group of people who had been arguing inside the party, and he assisted in ending the argument.

Approximately five officers arrived at the location and stated, "What are you doing here? Don't move!" The officers mentioned that "something had happened" involving unidentified females who were not attending the party. civilian witness 7 believes that a female had been assaulted, but he was unable to recall additional details regarding the matter. While inside of the party, the officers attempted to figure out who was in charge of the party, but no one took responsibility, so they confiscated the DJ equipment and left. civilian witness 7 did not observe a frisk. civilian witness 7 was summonsed for acting as a security guard without a security license.

During civilian witness 7 phone statement, he scheduled an in-person interview at the CCRB on March 12, 2012, but failed to appear at the CCRB on this day. Between March 19, 2012, and March 26, 2012, three additional attempts were made to contact civilian witness 7 via phone and were unsuccessful.

Attempts to Contact Civilians

civilian witness 1 could not provide contact information for any of her friends at the party. A search of Lexis Nexis, conducted on April 7, 2011, provided a contact number and an address for civilian witness 3 though the telephone number was later determined to be disconnected (Enc. 32a-32d). A search of the white pages website failed to include any additional contact information for civilian witness 3. On April 7, 2011, July 21, 2011, and December 5, 2011, three please call letters were mailed to the residence of civilian witness 3 none of which have been returned to the CCRB by the United States Postal Service as of the writing of this report. No officer included civilian witness 3 information in their memo book or a Stop, Question, and Frisk report. A search of the New York City Department of Correction website was conducted on May 11, 2012, concluding that civilian witness 3 is not currently incarcerated. As such, the investigation was unable to obtain her statement.

The summons log from February 20, 2011, indicated that civilian witness 8 received a summons during the time of the incident (Enc. 23a-23b). On February 27, 2012, a Department of Motor Vehicles search yielded a home address for civilian witness 8. This same day, a Lexis Nexis search was conducted, yielding negative results. On February 29, 2012, and March 7, 2012, two please call letters were mailed to civilian witness 8 address, and both were returned to the CCRB by the United States Postal Service as undeliverable. No police documents yielded additional contact information for civilian witness 8. Absent additional contact information, a witness statement could not be obtained from civilian witness 8.

NYPD Statements:

Subject Officer: LIEUTENANT JOHN MCANDREW

- Lt. McAndrew is a [REDACTED]-year-old, 6'0" tall, 195-pound, white male with brown and gray hair and blue eyes.
- Lt. McAndrew worked from 6:00 p.m. on February 19, 2011, to 2:45 a.m. on February 20, 2011, as the 48th Precinct Special Operations Lieutenant. Lt. McAndrew was working in uniform, by himself, and assigned to a marked RMP.

Memo Book: (Enc. 12a-12b)

On February 20, 2011, at approximately 2:45 a.m., Lt. McAndrew broke up a house party at [REDACTED] Bronx Park Avenue with DJ equipment seized and two c-summons issued.

CCRB Testimony

Lt. McAndrew was interviewed at the CCRB on January 10, 2012 (Enc. 13a-13c). In the early morning hours of February 20, 2011, Lt. McAndrew was notified by the 33rd Precinct of a house party taking place at [REDACTED] Bronx Park Avenue, in the Bronx, which the precinct intercepted from Facebook. Lt. McAndrew did not receive any additional information about the condition of the location during the brief call. The call may have been transmitted via radio or cell phone.

The house has had numerous prior drug-related incidents that Lt. McAndrew is aware of. Similarly, the NYPD has received letters from civilians stating that drug and gang activity occurs within the house. He described the location as a beaten down two-story walk-up building that is deserted on the first floor and has tenants on the second floor.

Upon arriving, Lt. McAndrews observed that Sgt. Barbarelli was already at the location. However, the investigation determined that Sgt. Barbarelli was not present. Lt. McAndrew could hear the music from the street and he observed various people, who appeared to be underage, lining up outside of the house giving money to a larger man who appeared to be manning the door. Upon seeing the officers, the larger man ran away from the location.

Lt. McAndrew walked into the house with members of the Conditions Team, identified via the investigation as PO Kendo Kinsey, PO Nazim Karim, PO Kelvin Sanchez, PO George Hines, PO Tad Myers, PO Jeffery Santana, and PO Olga Petrenko. The officers navigated their way through a very narrow hallway, past the stairway on the right, and past doors on both sides of the hallway, which led to the kitchen area. The location had very narrow spaces that posed a threat to the officers, who were unable to move around freely among the masses of people. There was no furniture at the location, and Lt. McAndrew estimated that 80-100 young adults had gathered in the house. Some of these individuals jumped out of the window or ran throughout the house when officers arrived. People were coming and leaving through doorways from two different directions and beer bottles had been scattered across the floor.

Lt. McAndrew had everyone report to the common area of the house and organized the females and males into separate lines. With as much organization as possible, he gave orders to the officers he arrived with, though he does not recall specifically what they were. A few male officers and one female officer, identified via the investigation as PO Jessica Mayorga, were in different areas throughout the house with the individuals, lining them up in lines of females and males. PO Mayorga frisked the female civilians and allowed them to leave while the male officers frisked the males.

Lt. McAndrew noted that Sgt. Barbarelli, the female officer, and himself performed frisks of various individuals for firearms in the waistband area, but he was unable to estimate how many people were frisked, as some jumped out of the window. Lt. McAndrew said that in his experience, house parties are commonplace for violence. Lt. McAndrew cited 43 shootings in 2011, and approximated that 40% of those shootings took place at a house party. Additionally, the number of civilians severely outnumbered the number of officers, and given that some civilians were jumping out of the windows, Lt. McAndrew perceived this as a threat. Furthermore, the volume of the large group of people blocked out the sound from the officers radios, so they were unable to communicate with each other via radio while in the house. Altogether, Lt. McAndrew described the incident as an “unsafe situation.”

A photograph of [REDACTED] civilian witness 1 was presented to Lt. McAndrew, and he did not recall interacting with her or observing her at the party, nor did he recall interacting with PO Kinsey at the house. Generally, all of the civilians were compliant with the officers’ orders. Lt. McAndrew did not

observe an officer use force against a civilian, nor did he see a female get slammed into the wall, or dragged by the arm by an officer. Lt. McAndrew did not hear an officer state, “I’ve been doing this shit for 8 ½ years, I know what I’m doing.”

Lt. McAndrew identified the DJ, who appeared to be in charge of the party, and issued him two summonses. The DJ equipment was also confiscated. Lt. McAndrew was unable to get to the back of the house safely, and did not canvass the area for things that may have been thrown out of the window. Lt. McAndrew was at the location for approximately one hour.

Subject Officer: PO KENDO KINSEY

- *PO Kinsey is a [REDACTED]-year-old, 5’9” tall, 210-pound black male with black hair and brown eyes.*
- *PO Kinsey worked from 5:35p.m. on February 19, 2011 until 2:05a.m. on February 20, 2011. He was dressed in uniform and was assigned to the 48th Precinct Conditions Team, though he does not recall exactly who he was working with at the time of the incident. All officers were assigned to a marked van.*

Memo Book (Enc. 14a-14b)

PO Kinsey did not have any memo book entries regarding this incident.

CCRB Testimony

PO Kendo Kinsey was interviewed at the CCRB on May 18, 2011 (Enc. 15a-15c). PO Kinsey’s statement was generally consistent with Lt. McAndrew’s statement with any additions or exceptions noted below.

Late in the evening on February 19, 2011, there was a complaint about a house party, located at [REDACTED] Bronx Park Avenue, in the Bronx. At the time of the incident, PO Kinsey was notified by Lt. McAndrew that numerous complaints had been made in the past regarding house parties, noise complaints, underage drinking and possible weapons at this specific location. Lt. McAndrew was told that there might have been weapons at the location. PO Kinsey did not have any additional details about the complaints. He did not know how the complaint was made.

PO Kinsey and members of the Conditions Team, whose names he was unable to recall, arrived at the location and observed a group of kids entering the house. Once the group saw the officers, they turned around and walked away. PO Kinsey observed a male security guard, identified via the investigation as [REDACTED] collecting money at the entrance to the house. Lt. McAndrew and PO Kinsey spoke with [REDACTED] and asked him if he was a bouncer. [REDACTED] did not respond verbally, and “just looked at them.” An officer asked for [REDACTED] ID, which he provided. Although [REDACTED] did not have a security license, PO Kinsey believes that he left the location without being summonsed.

The officers then entered the house and observed at least two hundred kids inside the house, many of whom looked underage. An officer approached the DJ, who was playing loud music, and instructed him to turn it off. PO Kinsey observed multiple kids throwing alcohol containers and scampering. He could smell marijuana inside the location.

The officers separated the males and the females into two separate lines. The officers then frisked all of the individuals inside the house for weapons and allowed them to leave two or three at a time. The males were told to leave through one exit and the females through another. They did this because if any of the males had weapons, they could have given them to the females so that the females could run out of the location. A few of the officers checked to make sure that none of the partygoers threw any weapons out of the window, and the rest of the officers frisked the partygoers for weapons. PO Kinsey stated that this was done because an unidentified complainant told Lt. McAndrew that the partygoers might have had weapons.

PO Kinsey heard one female, identified via the investigation as civilian witness 1 cursing and acting belligerent while waiting in line. PO Kinsey is unable to recall what statements civilian witness 1 was making. PO Kinsey approached civilian witness 1 and asked her to repeat herself. He did not ask, “Which manly female said that?” civilian witness 1 refused to repeat herself, and she became disrespectful towards PO Kinsey. PO Kinsey stated that kids tend to be disrespectful when they are in front of their friends, so he decided to pull her aside and speak with her. PO Kinsey said, “Come here,” and tried to grab civilian witness 1 hand, but she pulled away and said something rude to PO Kinsey. PO Kinsey was unable to recall what she said.

PO Kinsey called another officer over (he could not recall who) to assist him. PO Kinsey placed civilian witness 1 in handcuffs. She initially resisted a little, but PO Kinsey told her to relax and she did. He did not push her against a wall, nor did he see any other officer do so. He did not see her face make contact with a wall at any point.

Once civilian witness 1 was in handcuffs, PO Kinsey led her out of the living room into a nearby hallway. civilian witness 1 was compliant at this point and PO Kinsey did not drag her. PO Kinsey indicated that they were in plain view of the living room where all of the officers and partygoers were. civilian witness 1 sat on a chair and PO Kinsey explained to her why the officers were there.

PO Kinsey initially planned to issue her a summons for disorderly conduct, but decided not to when she explained to him that she was going into the military and would be leaving soon. PO Kinsey was in the military for 8 ½ years. He told her that her attitude “sucked” and that if she still had this attitude, she would get in trouble in the military.

When asked if he stated, “I’ve been doing this shit for 8 ½ years, I know what the fuck I’m doing,” PO Kinsey stated that he would not have said this because he had not been on the job for 8 ½ years. When asked if he used any discourteous language or the word “fuck” while speaking with civilian witness 1 he stated that it was possible, but he did not recall if he did so. He stated that he does not curse while interacting with the public unless someone curses at him. PO Kinsey did not recall interacting with any of civilian witness 1 friends.

After civilian witness 1 was calm, PO Kinsey released her from the handcuffs, told her good luck in the military and allowed her to leave without a summons. civilian witness 1 was the last person to leave the party. She was not frisked. PO Kinsey could not recall for how long he interacted with civilian witness 1 prior to allowing her to leave.

Subject Officer: PO JESSICA MAYORGA

- PO Mayorga is a ■■■-year-old, 5’3” tall, 137-pound Hispanic female with long curly black hair.
- PO Mayorga worked from 10:00 p.m. on February 19, 2011, to 6:35 a.m. on February 20, 2011, on a 48th Precinct Conditions Team with PO Kelvin Sanchez. Both officers were in uniform and assigned to RMP 9968.

Memo Book (Enc. 16a-16c)

On February 20, 2011, at 12:43 a.m., PO Mayorga issued a summons pursuant to a UF-61 at ■■■ Bronx Park Avenue, in the Bronx, to an unlicensed security guard, civilian witness 7. At 1:19 a.m., PO Mayorga resumed patrol.

CCRB Testimony

PO Mayorga was interviewed at the CCRB on March 20, 2012 (Enc. 17a-17c). Her statement was generally consistent with PO Kinsey’s statement.

On the incident date, PO Mayorga responded to a house party at ■■■ Bronx Park Avenue, in the Bronx. Lt. John McAndrew personally called PO Mayorga to the location, as there were a lot of female partygoers at the location and her assistance was needed in “conducting an investigation.”

Inside of the location, Lt. McAndrew separated the male partygoers from the female partygoers in two lines that were approximately 12 feet apart inside of the large living room. An officer, PO Mayorga could not recall who, indicated that they were there in relation to a gun. PO Mayorga did not have any additional information regarding the gun and is unaware of any other factors that caused the officers to fear for the safety.

PO Mayorga was instructed by Lt. McAndrew to frisk the females at the location. PO Mayorga frisked 20-45 female partygoers. PO Mayorga was on one side of the female line, far removed from the rest of the officers. PO Mayorga was not paying attention to the rest of the officers and is unaware of whether an officer backed her up while she frisked the females. After the females were frisked, they were directed to walk out of the party with male police escorts. PO Mayorga stated that she was the only female officer at the location.

Upon viewing a photo of **civilian witness 1** PO Mayorga did not recognize her. At no point did PO Mayorga observe PO Kendo Kinsey drag, pull, or use force against a female partygoer, nor did she see a female partygoer being separated from the other female partygoers at the location. PO Mayorga did not hear PO Kinsey engaging in a conversation or using profanity regarding the military or boot camp. PO Mayorga did not hear PO Kinsey state, “I’ve been doing this shit for 8 ½ years, I know what the fuck I am doing.”

PO Mayorga issued a summons to an unlicensed security guard, identified during the interaction as **civilian witness 7** PO Mayorga then left the location.

Subject Officer: PO NAZIM KARIM

- *PO Karim is a ■-year-old, 5’11” tall, 168-pound Guyanese male with black hair and brown eyes.*
- *On the incident date, PO Karim worked the same assignment and tour as PO Kinsey. He noted additional members of his team as PO George Hines, PO Tad Myers, PO Jeffery Santana, PO Kelvin Sanchez, and PO Olga Petrenko.*

Memo Book (Enc. 18a-18b)

PO Karim did not prepare any memo book entries regarding this incident.

CCRB Testimony

PO Karim was interviewed at the CCRB on March 9, 2012 (Enc. 19a-19c). PO Karim’s statement was consistent with PO Mayorga’s statement with any additions or exceptions noted below.

Upon arriving at the location, PO Karim observed approximately 100 people who appeared underage were inside of the location drinking.

Upon viewing a photo of **civilian witness 1** PO Karim positively identified her as a female at the party who was speaking to PO Kendo Kinsey in the hallway outside of the living room. PO Karim did not observe PO Kinsey drag **civilian witness 1** out of the living room or throw her against a wall during the course of the incident. PO Karim overheard them speaking about the military and delineated that PO Kinsey was giving **civilian witness 1** advice about boot camp. PO Karim perceived **civilian witness 1** to “have an attitude” based on her body movements and facial expressions. During the conversation, PO Kinsey was telling **civilian witness 1** to behave herself and not to be rude and disrespectful. At no point did PO Karim hear PO Kinsey state, “I have been doing with this shit for 8 ½ years, I know what the fuck I am doing.”

PO Karim approached the DJ and ultimately issued him a summons. Lt. McAndrew informed the partygoers that the party was over. In response, some of the partygoers appeared upset and were cursing at the officers. At the direction of Lt. McAndrew, everyone in the party was frisked for weapons. To PO Karim’s knowledge, the partygoers were suspected to have weapons because the house was abandoned. PO Karim is unaware of any additional circumstances that caused the officers to fear for their safety.

NYPD Documents

SPRINT Report #N00551 and SPRINT Log (Enc. 22a-22c)

According to the SPRINT report, the 48th Precinct Summons Auto vehicle and the 48th Precinct Conditions vehicle arrived at [REDACTED] Bronx Park Avenue at 12:37 a.m. Both units indicated that a non-crime had been corrected between 12:37 a.m. and 1:52 a.m. The SPRINT log failed to reveal any reports of an assault.

Summons Log (Enc. 23a-23b)

The 48th Precinct Summons Log for February 20, 2011, indicated that two summonses were issued at [REDACTED] Bronx Park Avenue during the time of the incident. PO Nazim Karim issued [REDACTED] civilian witness 8 a summons for unnecessary noise at 12:30 a.m., and PO Jessica Mayorga issued [REDACTED] civilian witness 7 a summons for operating without a security guard license at 1:05 a.m.

Resource Log (Enc. 28a-28f)

A copy of the Resource log failed to reveal any reported assaults prior to the officers' arrival at [REDACTED] Bronx Park Avenue, in the Bronx. No other logs were of spatial or temporal significance.

Property Voucher Index (Enc. 24a-24b)

The Property Index indicated that PO Karim vouchered a turntable, six speakers, two equalizers, a lap top, and a lap top charger.

Criminal Complaint Report

A review of the Criminal Complaint Report log, encompassing all criminal complaints made within the 48th Precinct around the time of the incident, failed to yield positive matches to an assault occurring in the vicinity and around the time of incident.

Stop, Question and Frisk Log (Enc. 25a-25e)

According to the Handwritten Stop, Question and Frisk log, no reports were prepared in the vicinity of [REDACTED] Bronx Park Avenue, in the Bronx, during the time of the incident.

Other Evidence

Despite Lt. McAndrew indicating that Sgt. Barbarelli was present at the incident location, Sgt. Barbarelli's memo book (Enc. 20a-20b) and the roll call concluded that he was not working the night of February 19, 2011.

Status of Civil Proceedings

- civilian witness 1 has not filed a Notice of Claim with the City of New York as of April 5, 2012, with regard to the incident (Enc. 31a)

Civilian Criminal History

- As of April 5, 2012, Office of Court Administration records reveal no criminal convictions for civilian witness 1 (Enc. 30a).

Civilian CCRB History

- This is the first CCRB complaint filed by civilian witness 1 (Enc. 6a).

Subject Officers CCRB History

- PO Kendo Kinsey has been a member of the service for six years and there are no substantiated CCRB allegations against him (Enc. 5c).

Conclusion

Identification of Subject Officers

Both PO Kinsey and Lt. McAndrew acknowledged their presence at the incident location, and PO Kinsey acknowledged interacting with [civilian witness 1]

Allegations not Pleaded

Given that the force alleged by [civilian witness 1] is minimal and consistent with removing and restraining an individual, this allegation is not being pleaded.

[civilian witness 2] alleged additional discourteous statements made by PO Kinsey in the course of his and [civilian witness 1] conversation that [civilian witness 1] did not allege on her own behalf. Moreover, [civilian witness 1] failed to submit a verified notarized claim of her complaint. As such, additional discourteous language allegations have not been pleaded.

Investigative Findings and Recommendations

Allegation A: Abuse of Authority – Lt. John McAndrew authorized the frisk of [civilian witness 1] and individuals.

It is undisputed that Lt. McAndrew authorized the 48th Precinct Conditions Team to frisk [civilian witness 1] and approximately 20-80 unidentified individuals during the course of the encounter.

An officer may frisk an individual only if he possesses a particularized reasonable suspicion that the suspect is armed. *People v. Gonzalez* 743 N.Y.S.2d 112 (2002) (Enc. 1a-1b).

Lt. McAndrew cited the crowded atmosphere, unbalanced ratio of officers to civilians, presence of underage drinking, and his experience regarding violence during house parties as the deciding factors to authorize the frisks of the individuals at the party.

Aside from Lt. McAndrew's own subjective belief and experiences that house parties are violence-prone, he lacked evidence that [civilian witness 1] or any of the 20-80 individuals frisked were armed and dangerous. Given that Lt. McAndrew's basis for authorizing the frisks was insufficient, it is recommended that **Allegation A** be closed as **substantiated**.

Allegation B: Offensive Language – PO Kendo Kinsey made remarks to [civilian witness 1] based upon the sex of [civilian witness 1]

[civilian witness 1] alleged that PO Kinsey addressed her by stating, "Which manly female said that?" PO Kinsey denied making this statement and no other civilian or officer witness acknowledged hearing PO Kinsey make this statement.

It cannot be discounted that PO Kinsey could have used the alleged offensive language with intent to insult [civilian witness 1] who he perceived to be acting discourteously and intentionally defying

authority. Conversely, **civilian witness 1** may have fabricated the allegation to strengthen her argument against PO Kinsey. However, due to the controversial nature of the statements provided, the investigation could not determine whether PO Kinsey made the alleged offensive remarks. As such, it is recommended that **Allegation B** be closed as **unsubstantiated**.

Allegation C: Discourtesy- PO Kendo Kinsey spoke obscenely to **civilian witness 1**

civilian witness 1 alleged that PO Kinsey stated, “I’ve been doing this shit for 8 ½ years, I know what the fuck I’m doing.” PO Kinsey acknowledged the possibility of using discourteous language, noting that he does so when he is cursed at, but he was unable to recall whether he did so during this interaction.

Patrol Guide Procedure 203-09 mandates that all officers be courteous and respectful when interacting with the public (Enc. 2a).

PO Kinsey confirmed every other aspect of **civilian witness 1** and his conversation, aside from the profane language, to which he stated that it was “possible” that he said the word “fuck” or “shit”. Despite PO Kinsey only being employed by the NYPD for six years, he confirmed that he served in the military for 8 ½ years. Similarly, PO Karim and **civilian witness 2** confirmed that **civilian witness 1** and PO Kinsey were discussing the military.

Given PO Kinsey’s admission that he may have used discourteous language and his corroboration of all other circumstances of the incident, the investigation has determined by a preponderance of the evidence that the alleged profanity was used and was not justified under the circumstances. As such, it is recommended that **Allegation C** be closed as **substantiated**.

Allegation D: Other Misconduct – Lt. John McAndrew failed to prepare a stop and frisk report as required.

Allegation E: Other Misconduct – PO Keno Kinsey failed to prepare a stop and frisk report as required.

Allegation F: Other Misconduct – PO Jessica Mayorga failed to prepare a stop and frisk report as required.

Patrol Procedure 212-11 mandates that every officer prepare a Stop, Question, and Frisk Report for *each* person stopped (Enc. 3a-3c). Lt. McAndrew, PO Kinsey, and PO Mayorga acknowledged frisking individuals at that party, and subsequently failed to prepare a single Stop, Question and Frisk Report for the 20-80 frisks conducted. As such, it is recommended that they be cited with **other misconduct**.

Allegation G: Other Misconduct – PO Kendo Kinsey failed to prepare a memo book entry as required.

Allegation H: Other Misconduct – PO Nazim Karim failed to prepare a memo book entry as required.

It is undisputed that PO Kinsey and PO Karim played a substantive role in the incident and did not prepare any memo book entries. According to Patrol Guide Procedure 212-08, officers are required to maintain a daily activity log (Enc. 4a-4c).

PO Kinsey and PO Karim failed to make any memo book entries regarding their response to the location of a house party, nor did they document the frisk of numerous individuals, as required by Patrol Guide Procedure 212-08. Therefore, it is recommended that PO Kinsey and PO Karim be cited with **other misconduct**.

Investigator:	_____	Diana P. Murray	_____
	Signature	Print	Date
Supervisor:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
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